

IN RE: Duke Power – 2005 Annual Plan ) ORDER GRANTING  
 ) MOTIONS FOR  
 ) CONFIDENTIAL  
 ) TREATMENT

Pursuant to the Commission Order No. 2005-226, “Order Requiring Designation of Confidential Materials”, issued May 6, 2005, Duke delineates in its Motions the material for which the Company seeks confidential treatment and files such information in a separate package clearly marked “confidential.” According to Duke, the Company’s 2005 Annual Plan contains confidential information which is proprietary, commercially sensitive, contains critical energy infrastructure information and trade secrets.

Additionally, Duke requests the Commission treat the entirety of the Company's most recent FERC Form 715 as confidential and protect it from public disclosure consistent with FERC's determination that the annual FERC Form 715 filing contains "critical energy infrastructure information to be kept confidential and non-public."

A review of the materials in question establishes that the materials do provide detailed information concerning Duke's Annual Plan, Fall Forecast and FERC Form 715 which are sensitive. The South Carolina Freedom of Information Act ("FOIA") allows exemption from disclosure proprietary business information that meets a definition of "trade secrets." S.C. Code Ann. Section 30-4-40(a)(1) states that matters which may be exempt from FOIA include: "(1) Trade secrets, which are defined as unpatented, secret, commercially valuable plans, appliances, formulas, or processes....Trade secrets also include, for those public bodies who market services or products in competition with others, feasibility, planning, and marketing studies, and evaluations and other materials which contain references to potential customers, competitive information or evaluation." We find that the information for which Duke seeks protection as confidential falls within this definition of materials which may be exempted from disclosure under FOIA.

Because the Commission finds that the information filed by Duke is proprietary and meets the definition of "trade secrets" as defined under FOIA, the Commission grants the Motions of Duke.

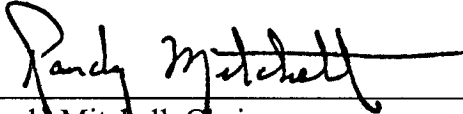
**IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:**

1. Confidential materials clearly delineated in its Motions and filed with the Commission by Duke Power, a division of Duke Energy Corporation, in its 2005 Fall

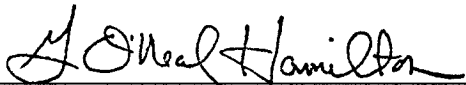
Forecast, 2005 Annual Plan and FERC Form 715 in this docket shall be declared confidential and shall be afforded confidential treatment.

2. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
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Randy Mitchell, Chairman

ATTEST:

  
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G. O'Neal Hamilton, Vice Chairman

(SEAL)